

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

CARLOS L. JENKINS

Plaintiff,

v.

WARDEN, CHILLICOTHE
CORRECTIONAL INSTITUTION,

Defendant.

Case No. 1:19-cv-914
JUDGE DOUGLAS R. COLE
Magistrate Judge Bowman

ORDER

This cause comes before the Court on the Magistrate Judge’s January 26, 2021, Report and Recommendation (“R&R”) (Doc. 14). The Magistrate Judge concludes that Plaintiff’s habeas petition (Doc. 1) is a second and successive petition, and thus recommends that the Court **TRANSFER** the matter to the Sixth Circuit for review and determination as to whether this Court may consider the successive claims for relief. The R&R advised both parties that a failure to object within the 14 days specified by the R&R may result in forfeiture of rights on appeal, which includes the right to District Court review. (R&R at #1210). *See also Thomas v. Arn*, 474 U.S. 140, 152 (1985) (“There is no indication that Congress, in enacting § 636(b)(1)(C), intended to require a district judge to review a magistrate’s report to which no objections are filed.”); *Berkshire v. Beauvais*, 928 F.3d 520, 530 (6th Cir. 2019) (noting “fail[ure] to file an objection to the magistrate judge’s R & R ... is forfeiture”); 28 U.S.C. § 636(b)(1)(C). The time for filing objections has now passed, and none have been filed.

The Court could simply adopt the R&R based on Jenkins' failure to object. As the recommended path here will involve transferring the matter to the Sixth Circuit, though, in turn creating work for that court, this Court has independently reviewed the R&R. Based on this review, the Court concludes that the Magistrate Judge was correct in determining that the habeas petition here is a successive petition under 28 U.S.C. § 2244(b), and that this Court thus lacks jurisdiction to consider it. Accordingly, the Court **ADOPTS** the Report and Recommendation (Doc. 14) and **TRANSFERS** the Plaintiff's habeas petition to the Sixth Circuit for review and determination as to whether this Court may consider the successive claims for relief.

SO ORDERED.

March 23, 2021

DATE


DOUGLAS R. COLE
UNITED STATES DISTRICT JUDGE